

### **REMARKS/ARGUMENTS**

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. Claim objections.

Claim 43 was objected to for having a period after the term "comprising:". The period has been deleted.

2. Rejection of Claim 43 under 35 U.S.C. §101.

Claim 43 was rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter, including a suggestion that the claims be amended "to embody the program on 'computer-readable medium' or equivalent in order to make the claim statutory."

The Applicant is puzzled by the Examiner's requirement, because Claim 43 is specifically directed to "[a] media that is computer readable and includes...". This wording does not appear to define any media that are not computer readable, and appears to be specifically limited to media that are computer readable. Specifically, the Examiner's claim that the scope of Claim 43 includes "paper on which the program is written, to a program simply contemplated and memorized by a person" is simply not a proper interpretation of "media that is computer readable", as required by the claim.

Although Claims 43 has been amended to recite "computer readable medium" instead of "media that is computer readable", the Applicant respectfully traverses the rejection. Contrary to the Examiner's assertions, Claim 43 clearly recites statutory subject matter. In fact, the nexus between the set of instructions (i.e., computer program) and the media accessible by a computer (i.e., media that is computer readable) recited in the claims renders the claim statutory. It does not matter whether the instructions are stored on a tape, disk, memory module, or piece of paper, so long as the medium is computer readable. In the case of the Examiner's concerns, even if

the instructions were stored on a piece of paper, the claims require that the piece of paper be accessible by a computer and executable on the computer. For example, the instructions could be in a bar code form that is scanned and loaded into the computer for execution, or the instructions could even be on punch cards, which, in fact, are pieces of paper. The claim would not be directed to the instructions per se (which would not be statutory subject matter), but to instructions that are stored on a statutory medium and which would be carried out by a statutory computer. Hence, the claim would be statutory.

The Applicant respectfully notes that "when functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized... Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory... Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and Office personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material. When a computer program is claimed in a process where the computer is executing the computer program's instructions, Office personnel should treat the claim as a process claim." See Examination Guidelines for Computer-Related Inventions.

Therefore, even if the Examiner were to interpret the computer readable medium recited in the Applicant's claims as a piece of paper, the fact that the instructions are stored on a physical object and are executable by a computer renders the claims statutory under the Examination Guidelines for Computer-Related Inventions.

In view of the foregoing, the Applicant respectfully submits that Claim 43, as amended, recites statutory subject matter, and does not waive any right to pursue the original language of Claim 43 as being statutory.

3. Rejection of Claims 1, 8, 9, 11, 12, and 17-22 under 35 U.S.C. § 102(b).

Claims 1, 8, 9, 11, 12, and 17-22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ramirez-Diaz (U.S. No. 6,476,858).

As a preliminary matter, the Applicant does not agree with the Examiner's characterization of Ramirez-Diaz with respect to the claimed invention. However, because the Applicant wishes to focus on the dynamic bandwidth aspects of the invention, the claims have been amended to emphasize this element. Because Ramirez-Diaz contains no such dynamic bandwidth allocation, this rejection is now moot and should be withdrawn.

4. Rejection of Claims 2-7, 10, 13-16, and 23-44 under 35 U.S.C. § 103(a).

Claims 2-7, 10, 13-16, and 23-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramirez-Diaz (U.S. No. 6,476,858) in view of Smith (U.S. No. 6,757,008).

Smith teaches a video surveillance system having a video data stream that is compressed according to the MPEG algorithm (col. 3, ll. 4-6). Subsections of the image can be selected and displayed in an enlarged form (col. 3, ll. 8-11). Smith discloses nothing whatsoever regarding bandwidth allocation. The portions of Smith cited by the Examiner, col. 8, ll. 23-42, are directed to the use of the MPEG algorithm to compress a data stream resulting from video surveillance. A data stream from video surveillance is contrasted with a data stream from broadcast television to point out that the MPEG algorithm is well-suited to the data from video surveillance. The purpose of the invention disclosed in Smith is to obtain video capture data, and to compress that data such that it still contains all the detail of the original image. Smith merely points out that the content of video surveillance data is different than that of broadcast television, which gives rise to its use of particular compression algorithms.

The Applicant is well aware of the MPEG video format, and, in fact, notes that "[p]referably the video imager encodes the video signals into a format according to a

Moving Picture Experts (MPEG) video format” in paragraph [0020] of the instant application. The instant invention is not directed to, and does not claim, mere video compression such as MPEG. The instant invention teaches a way to control a video surveillance setup by dynamically modulating the data that is sent over the AC power-line network in response to event-driven and predetermined settings. All data is not “the same” in the instant invention, and is not treated the same. Smith merely compresses all video data that is captured; that is, all video data is treated exactly the same. Nothing is dynamically modulated or allocated in response to anything. The instant invention is directed to utilizing a video device network efficiently as a whole by dynamically allocating the movement of data in the network, not by just reducing image sizes using compression. The Examiner’s characterization of mere image compression (e.g., MPEG) as adaptive dynamic bandwidth allocation fundamentally misinterprets the concepts presented in the instant invention as disclosed and claimed.

Moreover, the problem addressed by the present invention is not even addressed by Smith, nor can it be solved by application of any concept taught or suggested by Smith. Smith does not deal with or teach the use of more than one video source, other than to mention that the use of multiple video cameras in a large surveillance area is difficult and inconvenient (col. 1, ll. 55-64). Smith only addresses the wholesale compression of video data relating to a video surveillance camera and its subsequent decompression for viewing image detail. Smith cannot address the dynamic switching and bandwidth allocation of remote video imaging devices based on predetermined and event-driven settings.

5. Amendment and status of claims.

The claims have been reviewed and amended, when necessary, to focus specifically on the adaptive dynamic bandwidth allocation elements of the present invention.

Claims 1 and 12.

Independent Claim 1 has been amended to include the “means for dynamically allocating bandwidth...” contained in Claim 2. Claim 2 has been cancelled. As noted hereinabove, Smith does not teach, suggest, or provide motivation for any “means for dynamically allocating bandwidth”.

Independent Claim 12 has been amended to include the limitation that “[the] computer server is configured to dynamically allocate bandwidth for video imaging devices in response to predetermined or event-driven settings” contained in Claim 13. Claim 13 has been cancelled. Any dependencies on Claim 13 have been corrected. As noted hereinabove, Smith does not teach, suggest, or provide motivation to “dynamically allocate bandwidth...in response to predetermined or event-driven settings”.

Claims 25, 34, 39, 43, and 44.

Independent Claim 25 already recites the limitation “wherein dynamic bandwidth allocations are received from said server and video signals from said image sensor subject to said dynamic bandwidth allocation are transmitted to said server”, and has not been amended. Smith does not teach, suggest, or provide motivation for “dynamic bandwidth allocations [that] are received from [a] server” or for “video signals subject to [a] dynamic bandwidth allocation”.

Independent Claim 34 already recites the limitation “a computer server configured for allocating bandwidth to remote video imaging devices and receiving video streams subject to said bandwidth allocation...”, and has not been amended. As noted hereinabove, Smith does not teach, suggest, or provide motivation for “allocating bandwidth” or for devices that are “subject to [ ] bandwidth allocation”.

Independent Claim 39 already recites “programming executable on [a] computer for...controlling the bandwidth of [ ] video data streams generated by [ ] video imaging devices when multiple video imaging devices are active”, and has not been amended. As noted hereinabove, Smith does not teach, suggest, or provide motivation for the

presence of “multiple video devices”, and, in fact, teaches away from their presence. Even so, the presence of multiple video devices would not provide Smith with any sort of bandwidth allocation. Each video stream would be subject to the same MPEG compression as any other in Smith. There is no “allocation” or “control” of bandwidth that takes place in Smith.

Independent Claim 43 already recites that “the controller [performs] the steps comprising...controlling the bandwidth of [the] video data streams generated by [the] video imaging devices”, and has not been amended. Smith does not teach, suggest, or provide motivation for multiple video streams, nor does it teach, suggest, or provide motivation for “controlling the bandwidth” of anything. No “control” whatsoever takes place in Smith.

Independent Claim 44 already recites the step of “communicating [ ] video signals over an AC power line subject to a dynamic bandwidth allocation”, and has not been amended. As noted hereinabove, Smith does not teach, suggest, or provide motivation for “dynamic bandwidth allocation”. Smith does not address “bandwidth”, and moreover, does not perform any kind of dynamic allocation.

6. Amendments Made Without Prejudice or Estoppel.

Notwithstanding the amendments made and accompanying traversing remarks provided above, Applicants have made these amendments in order to expedite allowance of the currently pending subject matter. However, Applicants do not acquiesce in the original ground for rejection with respect to the original form of these claims. These amendments have been made without any prejudice, waiver, or estoppel, and without forfeiture or dedication to the public, with respect to the original subject matter of the claims as originally filed or in their form immediately preceding these amendments. Applicants reserve the right to pursue the original scope of these claims in the future, such as through continuation practice, for example.

Appl. No.: 10/624,706  
Amdt. Dated: 03/27/2007  
Off. Act. Dated: 01/04/2007

7. Conclusion.

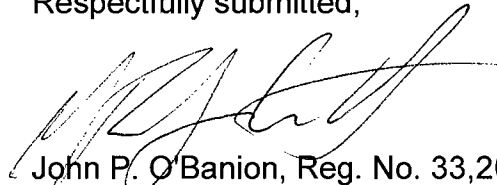
Based on the foregoing, Applicants respectfully request that the various grounds for rejection in the Office Action be reconsidered and withdrawn with respect to the presently amended form of the claims, and that a Notice of Allowance be issued for the present application to pass to issuance.

In the event any further matters remain at issue with respect to the present application, Applicants respectfully request that the Examiner please contact the undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this application.

Date: \_\_\_\_\_

3/27/07

Respectfully submitted,



John P. O'Banion, Reg. No. 33,201  
M. Robyn Carrillo, Reg. No. 47,474  
O'BANION & RITCHEY LLP  
400 Capitol Mall, Suite 1550  
Sacramento, CA 95814  
(916) 498-1010